



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Randy Pace

MAR -2 2016

Medford, NJ 08055

RE: MUR 6830
Tom MacArthur for Congress, Inc. and Ron
Gravino in his official capacity as
treasurer
Burlington County Republican Committee
and Charles Lambiase in his official
capacity as treasurer
Megan Riffle

Dear Mr. Pace:

This is in reference to the complaint you filed with the Federal Election Commission on May 22, 2014, concerning Tom MacArthur for Congress, Inc. and Ron Gravino in his official capacity as treasurer (the "MacArthur Committee"), Burlington County Republican Committee and Charles Lambiase in his official capacity as treasurer ("Burlington County Committee"), and Megan Riffle. On February 19, 2016, the Commission voted to dismiss allegations as to the MacArthur Committee and Burlington County Committee. Additionally, the Commission found no reason to believe that Megan Riffle violated the Act or the Commission's regulations and closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Copies of the Factual and Legal Analyses, which explain the bases for the Commission's findings, are enclosed for your information.

Randy Pace
MUR 6830
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If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Camilla Jackson Jones
Attorney

Enclosures
Factual and Legal Analyses

— 100 —

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENTS:** Tom MacArthur for Congress, Inc. and **MUR: 6830**
6 Ron Gravino in his official capacity as treasurer
7

8 **I. INTRODUCTION**

9 This matter arises from a complaint alleging that the Burlington County Republican
10 Committee and Charles Lambiase in his official capacity as treasurer (the "County Committee")
11 made an in-kind contribution to Tom MacArthur for Congress, Inc. and Ron Gravino in his
12 official capacity as treasurer (the "MacArthur Committee") by allowing the MacArthur
13 Committee to use the County Committee's office space and related office services in the lead up
14 to the June 3, 2014 primary election.¹ The Complaint also asserts that the County Committee
15 had no federal account from which expenditures could be made lawfully and contends that this
16 indicates the alleged in-kind contribution to the MacArthur Committee violated the Act's source
17 prohibitions.² Finally, the Complaint contends that, by failing the report these alleged
18 contributions, the MacArthur Committee violated the Act's reporting requirements.³

19 The MacArthur Committee, the County Committee, and Megan Riffle, the County
20 Committee's Organizational and Political Director, submitted separate responses denying that
21 the MacArthur Committee's use of the office space resulted in a contribution from the County

¹ Compl. at 1-2 (May 22, 2014).

² *Id.* at 2-3.

³ *Id.*

1 Committee.⁴ The County Committee acknowledged leasing office space to the MacArthur
2 Committee, but asserted that the MacArthur Committee paid rent for its use of the space.⁵

3 For the reasons discussed below, the Commission exercises its prosecutorial discretion
4 and dismisses the allegations that the MacArthur Committee violated 52 U.S.C. §§ 30104(b),
5 30116(f), and 30125(e) by accepting and failing to report excessive and prohibited in-kind
6 contributions from the County Committee.⁶

7 **II. FACTUAL AND LEGAL ANALYSIS**

8 The Complaint alleges that during the 2014 Republican primary election for New
9 Jersey's Third Congressional District, the MacArthur Committee used the County Committee's
10 office space as its campaign headquarters, including using the County Committee's telephones,
11 office equipment, staff, and other support services; that such uses constituted impermissible in-
12 kind contributions from the County Committee to the MacArthur Committee; and that the
13 MacArthur Committee failed to disclose these in-kind contributions in its disclosure reports filed
14 with the Commission.⁷

⁴ MacArthur Committee Resp. (July 17, 2014); County Committee Resp. (July 17, 2014); Riffle Resp. (July 28, 2014).

⁵ County Committee Resp. at 2.

⁶ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁷ Compl. at 1-2. The Complaint includes an affidavit from Nicholas Hladick, who attests that on April 24, 2014, he went to the County Committee's headquarters and asked about volunteering for the MacArthur campaign because he had "heard that the MacArthur campaign was being run out of the Burlington GOP's office." Affidavit of Nicholas Hladick ¶ 1 (May 6, 2014) ("Hladick Aff.") (attached as Exhibit 1 to the Complaint). Hladick further asserts that Respondent Megan Riffle (whom Hladick erroneously refers to as "Megan Ripple") and a person named "Mike" told him that volunteers for the MacArthur campaign worked from the County Committee's offices and that, as a volunteer at this location, he would make telephone calls, prepare mailers, attend events, participate in "meet-and-greets" and fundraising, and coordinate community events. *Id.* at ¶¶ 2, 4-6. Hladick states that he left the County Committee's offices without doing any volunteer work for MacArthur. *Id.* at ¶ 7.

1 Respondents contend that no in-kind contributions resulted from the MacArthur
2 Committee's use of the County Committee's office space.⁸ The County Committee states that it
3 has rented the same privately owned building for decades, that it agreed in April 2014 to sub-
4 lease extra space in the building to the MacArthur Committee,⁹ and that the sub-lease included
5 certain utilities and incidental expenses.¹⁰ The MacArthur Committee, moreover, contends that
6 this space did not serve as its campaign headquarters,¹¹ but rather as a satellite office where it
7 "maintained only a limited presence"¹² — having just one staff member at first, and reaching a
8 maximum of only four — and that it paid a vendor, Fitzsimmons Communication, for telephone
9 services related to phone banks the MacArthur Committee operated out of the County
10 Committee's offices.¹³

11 It is unclear on what date the MacArthur Committee first occupied the office space.
12 Although the County Committee states that the lease was entered into in "April 2014," the
13 MacArthur Committee explains that one staff member (Harrison Neely) began working from the
14 County Committee's office space as early as March 24, 2014.¹⁴

⁸ MacArthur Committee Resp. at 1-3; County Committee Resp. at 2-3.

⁹ Neither the County Committee nor the MacArthur Committee submitted with their responses a copy of a sublease agreement.

¹⁰ County Committee Resp. at 2.

¹¹ MacArthur Committee Resp. at 2. The MacArthur Committee's official address filed with the Commission is P.O. Box 225, Colonia, N.J. 07067. The MacArthur Committee attests that the address of its official campaign headquarters is 340 U.S. Route 9, Bayville, N.J. 08721. See Affidavit of Harrison Neely ¶ 5 (July 16, 2014) ("Neely Aff.") (attached as Exhibit 1 to the MacArthur Committee Response).

¹² MacArthur Committee Resp. at 2.

¹³ *Id.* at 3, Ex. A. The MacArthur Committee asserts that it disclosed these disbursements in disclosure reports it filed with the Commission. See, e.g., 2014 MacArthur Committee Pre-Primary Report (May 22, 2014).

¹⁴ The MacArthur Committee provided an affidavit from Neely, its Burlington County Regional Director, attesting that he began working for the MacArthur campaign on March 24, 2014, and that he was the only campaign staff member working at the County Committee location until mid-April 2014. Affidavit of Harrison Neely ¶ 2-4, 7 (July 16, 2014) ("Neely Aff.") (attached as Exhibit 1 to the MacArthur Committee Response). Neely states that the

1 Both the MacArthur Committee's and the County Committee's responses attach a copy
2 of a check dated June 20, 2014, that the MacArthur Committee issued to the County Committee
3 in the amount of \$9,952. The check's memo entry states: "rent & services utilities."
4 Respondents assert that this payment was for rent and associated expenses related to the
5 MacArthur Committee's use of the space in the County Committee's building from late March to
6 the June 3, 2014 primary election.¹⁵

7 The County Committee said that it received the check after it "requested payment from"
8 the MacArthur Committee "shortly after the primary election."¹⁶ The MacArthur Committee
9 states that it was not required to pay for any of its use of the County Committee's facilities under
10 the Act but did so "out of an abundance of caution"; however, it contends in the alternative that,
11 nevertheless, the payment was made within a commercially reasonable time and thus no
12 contribution could have occurred.¹⁷

13 The Commission concludes that any further pursuit of the allegations here would be an
14 imprudent use of its resources, whether or not the MacArthur Committee's use of the office
15 space and related services prior to the primary election constituted in-kind contributions from the
16 County Committee. Assuming that the \$9,952 payment for "rent & services utilities" was based
17 on the fair-market value of the rent, the MacArthur Committee has paid the County Committee
18 for its use of the office space during that period. In any event, the record indicates that any

MacArthur campaign's headquarters was located in Bayville, N.J., not in the County Committee's office in Mount Holly, N.J. He further avers that MacArthur Committee staff working at the County Committee's offices used personal laptops, and telephones, equipment, and supplies provided by the MacArthur Committee for campaign related work, and the campaign paid its staff and service providers with its own funds. *Id.* at ¶¶ 5-6, 8-10.

¹⁵ See MacArthur Committee Resp. at 3; *see also id.*, Ex. B; County Committee Resp. at 3, Ex. A.

¹⁶ County Committee Resp. at 2. The County Committee did not attach a written request or invoice with its response.

¹⁷ MacArthur Committee Resp. at 2 (citing 11 C.F.R. §§ 106.1(c), 116.3).

1 potential benefit the MacArthur Committee may have derived from the use of the space likely
2 would have been modest because the satellite office was a small operation at all relevant times
3 and it appears that the MacArthur Committee did not use additional County Committee
4 resources.¹⁸

5 Given these factual circumstances, the Commission exercises its prosecutorial discretion
6 and dismisses the allegations that the MacArthur Committee violated 52 U.S.C. §§ 30104(b),
7 30116(f), and 30125(e) by accepting and failing to report excessive and prohibited in-kind
8 contributions from the County Committee.¹⁹

¹⁸ Necly Aff. ¶¶ 8-9; cf. MUR 6463 (Antaramian) (finding reason to believe that the DNC received an in-kind contribution by conducting its operations in sub-leased office space for seven months without paying \$30,000 in rent until after a lawsuit was filed).

¹⁹ See *Heckler*, 470 U.S. 821.

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Burlington County Republican Committee and **MUR: 6830**
6 Charles Lambiase in his official capacity as treasurer

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7 **I. INTRODUCTION**

8 This matter arises from a complaint alleging that the Burlington County Republican
9 Committee and Charles Lambiase in his official capacity as treasurer (the "County Committee")
10 made an in-kind contribution to Tom MacArthur for Congress, Inc. and Ron Gravino in his
11 official capacity as treasurer (the "MacArthur Committee") by allowing the MacArthur
12 Committee to use the County Committee's office space and related office services in the lead up
13 to the June 3, 2014 primary election.¹ The Complaint also asserts that the County Committee
14 had no federal account from which expenditures could be made lawfully and contends that this
15 indicates the alleged in-kind contribution to the MacArthur Committee violated the Act's source
16 prohibitions.² Finally, the Complaint contends that, in making these alleged contributions, the
17 County Committee triggered federal political committee status and thus violated the Act's
18 registration and reporting requirements.³

19 The MacArthur Committee, the County Committee, and Megan Riffle, the County
20 Committee's Organizational and Political Director, submitted separate responses denying that
21 the MacArthur Committee's use of the office space resulted in a contribution from the County

¹ Compl. at 1-2 (May 22, 2014).

² *Id.* at 2-3.

³ *Id.* at 2-3.

Committee.⁴ The County Committee acknowledged leasing office space to the MacArthur Committee, but asserted that the MacArthur Committee paid rent for its use of the space.⁵

For the reasons discussed below, the Commission exercises its prosecutorial discretion and dismisses the allegations that the County Committee violated 52 U.S.C. §§ 30103(a), 30104(a), 30116(a)(1)(C), and 30125(b) by making excessive or prohibited in-kind contributions to the MacArthur Committee or by failing to register and report as a political committee with the Commission.⁶ Additionally, the Commission finds no reason to believe that Megan Riffle violated the Act or Commission regulations as alleged in this matter.

II. FACTUAL AND LEGAL ANALYSIS

A. Allegation of Impermissible In-Kind Contribution Resulting from the Use of Office Space

The Complaint alleges that during the 2014 Republican primary election for New Jersey's Third Congressional District, the MacArthur Committee used the County Committee's office space as its campaign headquarters, including using the County Committee's telephones, office equipment, staff, and other support services; that such uses constituted impermissible in-kind contributions from the County Committee to the MacArthur Committee; and that the MacArthur Committee failed to disclose these in-kind contributions in its disclosure reports filed with the Commission.⁷

⁴ MacArthur Committee Resp. (July 17, 2014); County Committee Resp. (July 17, 2014); Riffle Resp. (July 28, 2014).

⁵ County Committee Resp. at 2.

⁶ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁷ Compl. at 1-2. The Complaint includes an affidavit from Nicholas Hladick, who attests that on April 24, 2014, he went to the County Committee's headquarters and asked about volunteering for the MacArthur campaign because he had "heard that the MacArthur campaign was being run out of the Burlington GOP's office." Affidavit of Nicholas Hladick ¶ 1 (May 6, 2014) ("Hladick Aff.") (attached as Exhibit 1 to the Complaint). Hladick further asserts that Respondent Megan Riffle (whom Hladick erroneously refers to as "Megan Ripple") and a person named "Mike" told him that volunteers for the MacArthur campaign worked from the County Committee's offices and that,

1 Respondents contend that no in-kind contributions resulted from the MacArthur
2 Committee's use of the County Committee's office space.⁸ The County Committee states that it
3 has rented the same privately owned building for decades, that it agreed in April 2014 to sub-
4 lease extra space in the building to the MacArthur Committee,⁹ and that the sub-lease included
5 certain utilities and incidental expenses.¹⁰ The MacArthur Committee, moreover, contends that
6 this space did not serve as its campaign headquarters,¹¹ but rather as a satellite office where it
7 "maintained only a limited presence"¹² — having just one staff member at first, and reaching a
8 maximum of only four — and that it paid a vendor, Fitzsimmons Communication, for telephone
9 services related to phone banks the MacArthur Committee operated out of the County
10 Committee's offices.¹³

11 It is unclear on what date the MacArthur Committee first occupied the office space.
12 Although the County Committee states that the lease was entered into in "April 2014," the

as a volunteer at this location, he would make telephone calls, prepare mailers, attend events, participate in "meet-
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⁸ MacArthur Committee Resp. at 1-3; County Committee Resp. at 2-3.

⁹ Neither the County Committee nor the MacArthur Committee submitted with their responses a copy of a
sublease agreement.

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¹¹ MacArthur Committee Resp. at 2. The MacArthur Committee's official address filed with the Commission
is P.O. Box 225, Colonia, N.J. 07067. The MacArthur Committee attests that the address of its official campaign
headquarters is 340 U.S. Route 9, Bayville, N.J. 08721. *See* Affidavit of Harrison Neely ¶ 5 (July 16, 2014) ("Neely
Aff.") (attached as Exhibit 1 to the MacArthur Committee Response).

¹² MacArthur Committee Resp. at 2.

¹³ *Id.* at 3, Ex. A. The MacArthur Committee asserts that it disclosed these disbursements in disclosure
reports it filed with the Commission. *See, e.g.,* 2014 MacArthur Committee Pre-Primary Report (May 22, 2014).

MacArthur Committee explains that one staff member (Harrison Neely) began working from the County Committee's office space as early as March 24, 2014.¹⁴

Both the MacArthur Committee's and the County Committee's responses attach a copy of a check dated June 20, 2014, that the MacArthur Committee issued to the County Committee in the amount of \$9,952. The check's memo entry states: "rent & services utilities."

Respondents assert that this payment was for rent and associated expenses related to the MacArthur Committee's use of the space in the County Committee's building from late March to the June 3, 2014 primary election.¹⁵

The County Committee said that it received the check after it "requested payment from" the MacArthur Committee "shortly after the primary election."¹⁶ The MacArthur Committee states that it was not required to pay for any of its use of the County Committee's facilities under the Act but did so "out of an abundance of caution"; however, it contends in the alternative that, nevertheless, the payment was made within a commercially reasonable time and thus no contribution could have occurred.¹⁷

The Commission concludes that any further pursuit of the allegations here would be an imprudent use of its resources, whether or not the MacArthur Committee's use of the office

¹⁴ The MacArthur Committee provided an affidavit from Neely, its Burlington County Regional Director, attesting that he began working for the MacArthur campaign on March 24, 2014, and that he was the only campaign staff member working at the County Committee location until mid-April 2014. Affidavit of Harrison Neely ¶ 2-4, 7 (July 16, 2014) ("Neely Aff.") (attached as Exhibit 1 to the MacArthur Committee Response). Neely states that the MacArthur campaign's headquarters was located in Bayville, N.J., not in the County Committee's office in Mount Holly, N.J. He further avers that MacArthur Committee staff working at the County Committee's offices used personal laptops, and telephones, equipment, and supplies provided by the MacArthur Committee for campaign related work, and the campaign paid its staff and service providers with its own funds. *Id.* at ¶¶ 5-6, 8-10.

¹⁵ See MacArthur Committee Resp. at 3; see also *id.*, Ex. B; County Committee Resp. at 3, Ex. A.

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1 space and related services prior to the primary election constituted in-kind contributions from the
2 County Committee. Assuming that the \$9,952 payment for "rent & services utilities" was based
3 on the fair-market value of the rent, the MacArthur Committee has paid the County Committee
4 for its use of the office space during that period. In any event, the record indicates that any
5 potential benefit the MacArthur Committee may have derived from the use of the space likely
6 would have been modest because the satellite office was a small operation at all relevant times
7 and it appears that the MacArthur Committee did not use additional County Committee
8 resources.¹⁸

9 Given these factual circumstances, the Commission exercises its prosecutorial discretion
10 and dismisses the allegations that the County Committee made an excessive or prohibited in-kind
11 contribution, in violation of 52 U.S.C. §§ 30116(a)(1)(C), or 30125(b).¹⁹ Furthermore, as the
12 available information presents no basis to find her personally liable for any violation, the
13 Commission finds no reason to believe that Megan Riffle violated the Act or Commission
14 regulations as alleged in this matter.

15 **B. Allegation of Failure to Register and Report as a Federal Political Committee**

16
17 As noted above, the Complaint also asserts that the value of the County Committee's
18 alleged in-kind contributions to the MacArthur Committee likely exceeded \$1,000, that this
19 qualifies the County Committee as a federal "political committee" as defined by 52 U.S.C
20 § 30101(4) of the Act, and that the County Committee therefore failed to meet the Act's

¹⁸ See Aff. ¶¶ 8-9; cf. MUR 6463 (Antaramian) (finding reason to believe that the DNC received an in-kind contribution by conducting its operations in sub-leased office space for seven months without paying \$30,000 in rent until after a lawsuit was filed).

¹⁹ See *Heckler*, 470 U.S. 821.

1 registration and reporting requirements for political committees.²⁰ The County Committee
2 contends that it does not qualify as a political committee under federal law.

3 A local committee of a political party is defined as an organization that by virtue of the
4 by-laws of a political party or the operation of state law is part of the official party structure and
5 is responsible for the day-to-day operation of the political party at the level of city, county,
6 neighborhood, ward, district, precinct, or any other subdivision of a state.²¹ The County
7 Committee appears to be a local committee of a political party because it is responsible for
8 carrying out the functions of the Republican Party in Burlington County, in accordance with
9 New Jersey State election laws.²² Under 52 U.S.C. § 30101(4)(C), a local committee of a
10 political party is a "political committee" if it, among other things, makes expenditures
11 aggregating in excess of \$1,000 during a calendar year for the purpose of influencing a federal
12 election.²³

13 The record reflects that the County Committee made one \$121 in-kind contribution to the
14 MacArthur Committee in 2014 for direct-mail services.²⁴ But whether or not the County
15 Committee made aggregate in-kind contributions exceeding the \$1,000 threshold through the
16 provision of the office space and related services prior to the primary election, the Commission
17 concludes that further pursuit of this matter would not be a prudent use of its resources for the
18 reasons discussed above — i.e., the MacArthur Committee paid the County Committee rent for

²⁰ Compl. at 2.

²¹ 11 C.F.R. § 100.14(b).

²² Constitution and By-Laws for the Burlington County Republican Committee Art. II,
<http://www.co.burlington.nj.us/DocumentCenter/View/2717>; 2013 New Jersey Revised Statutes, Section 19:1.
See Factual and Legal Analysis at 6-7, MUR 6683 (Fort Bend Democrat Party).

²³ 52 U.S.C. § 30101(4)(C).

²⁴ MacArthur Committee 2014 October Quarterly Report (Oct. 20, 2014) at 98.

1 the space and any benefit it derived from use of the space was apparently minimal. The
2 Commission thus exercises its prosecutorial discretion and dismisses the allegation that the
3 Burlington County Republican Committee and Charles Lambiase in his official capacity as
4 treasurer violated the Act's registration and reporting requirements set forth in 52 U.S.C.
5 §§ 30103(a) and 30104(a).²⁵

²⁵ *Heckler*, 470 U.S. 821.